



COPY MAILED Paper No. 4

ALICE O KIELY
71 STONEWALL COURT
YORKTOWN HEIGHTS, NY 10598-1819

MAR 29 2001

OFFICE OF PETITIONS
A/C PATENTSIn re Application of
Alice Mary O'Donnell-Kiely
Application No. 09/641,410
Filed: 18 August, 2000
For: Edible Supports for
Comestibles with Optional, Edible
Mess Guards and Drip Guards:
: DECISION DISMISSING
: PETITION
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:
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This is a decision on the petition filed 20 October, 2000, requesting that the above-identified application be accorded a filing date of 18 August, 2000, with Figures 41A-41D, 42, and 43 as part of the original disclosure.

On 18 August, 2000, applicant filed the above-identified application. However, on 5 October, 2000, the Office of Initial Patent Examination mailed a "Notice of Omitted Items," stating that a filing date had been assigned in the application; however, Figures 41A-41D, 42, and 43 described in the specification appeared to be omitted from the application.

In response, on 20 October, 2000, applicant filed the present petition to accord a filing date of 18 August, 2000, with Figures 41A-41D, 42, and 43 as part of the original disclosure. Applicant asserts that the figures in question were with the application as initially filed on 18 August, 2000, but were mislabelled as Figures 43A-43D, and 44A and 44B. Applicant submitted one sheet of drawings, "Page 19 of 19," with Figures 43A-43D, 44A, and 44B, and one sheet of drawings, also described as "Page 19 of 19" with the same figures labeled Figures 41A-41D, 42, and 43, respectively.

A review of the record reveals that applicant filed 18 sheets of drawings, labeled Pages 1-18 of 19, with the application papers on 18 August, 2000. The figures described on Page 19 of 19 filed with the present petition, were not contained on **any** of the sheets of drawings filed with the original application papers on 18 August, 2000. Because Figures 41A-41D, 42, and 43 were not present on 18 August, 2000, the date the application was filed, Figures 41A-41D, 42, and 43 cannot be considered a part of the original disclosure of the application. Accordingly, the application cannot be accorded the filing date of 18 August,

2000, with the drawings of Figures 41A-41D, 42, and 43 as a part of the original disclosure.

Accordingly, the petition is dismissed.

Figures 41A-41D, 42, 43, submitted with the present petition on 20 October, 2000, will not be entered or used during the prosecution of this application. However, applicant may resubmit the matter included in Figures 41A-41D, 42, and 43 as an amendment for consideration by the examiner under Sections 608.02(p) and 608.04 of the Manual of Patent Examining Procedure.

Any request for reconsideration should be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

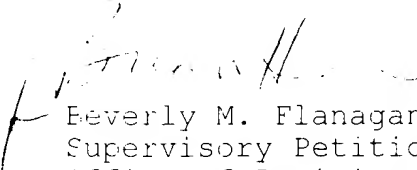
By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

The application file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 18 August, 2000, using the 18 sheets of drawings containing filed with the original application papers on 18 August, 2000, and an indication in the Office records that 18 sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.


Beverly M. Flanagan
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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy